

Effective 5/12/2015

Part 1 General Provisions

11-51a-101 Title.

This chapter is known as the "Catastrophic Public Nuisance Act."

Enacted by Chapter 419, 2015 General Session

11-51a-102 Definitions.

As used in this chapter:

- (1) "Catastrophic public nuisance" means a condition on state or federal land where natural resources and biota have been managed or neglected to such an extent as to cause:
 - (a) the threat of a catastrophic wildfire demonstrated by:
 - (i) stand density, basal area, or ground fuel load greater than 150% of land health standards; or
 - (ii) an insect or disease infestation severe enough to threaten the mortality of at least 20% of the trees in the area; or
 - (b) a condition in the area that threatens the:
 - (i) quantity or quality of the public water supply of a political subdivision;
 - (ii) health, safety, or welfare of the citizens of a political subdivision;
 - (iii) air quality of a nonattainment area; or
 - (iv) vegetative resources required to support land health and authorized livestock grazing.
- (2) "Chief executive officer" means:
 - (a) for a municipality:
 - (i) the mayor, if the municipality is operating under a form of municipal government other than the council-manager form of government; or
 - (ii) the city manager, if the municipality is operating under the council-manager form of government;
 - (b) for a county:
 - (i) the chair of the county commission, if the county is operating under the county commission or expanded county commission form of government;
 - (ii) the county executive officer, if the county is operating under the county-executive form of government; or
 - (iii) the county manager, if the county is operating under the council-manager form of government.
- (3) "County sheriff" means an individual:
 - (a) elected to the office of county sheriff; and
 - (b) who fulfills the duties described in Subsection 17-22-1.5(1).
- (4) "Federal agency" means the:
 - (a) United States Bureau of Land Management;
 - (b) United States Forest Service;
 - (c) United States Fish and Wildlife Service; or
 - (d) National Park Service.
- (5) "Federally managed land" means land that is managed by a federal agency.
- (6) "Political subdivision" means a municipality or county.

Enacted by Chapter 419, 2015 General Session

11-51a-103 Declaration of catastrophic public nuisance -- Authority to declare and demand abatement.

- (1) The chief executive officer of a political subdivision or a county sheriff may determine that a catastrophic public nuisance exists on land within the borders of the political subdivision.
- (2) In evaluating whether a catastrophic public nuisance exists, the chief executive officer of a political subdivision or a county sheriff may consider:
 - (a) tree density and overall health of a forested area, including the fire regime condition class;
 - (b) insect and disease infestation, including insect and disease hazard ratings;
 - (c) fuel loads;
 - (d) forest or range type;
 - (e) slope and other natural characteristics of an area;
 - (f) watershed protection criteria;
 - (g) weather and climate; and
 - (h) any other factor that the chief executive officer of a political subdivision or a county sheriff reasonably considers to be relevant, under the circumstances.
- (3) Except as provided in Section 11-51a-104, upon making the determination described in Subsection (1), the chief executive officer of a political subdivision or a county sheriff shall after consultation with the attorney general:
 - (a) serve notice of the determination described in Subsection (1), by hand or certified mail, on the federal or state agency that manages the land upon which the catastrophic nuisance exists; and
 - (b) provide a copy of the determination that is served under Subsection (3)(a) to the governor, the attorney general, and if the catastrophic public nuisance exists on federally managed land, the state's congressional delegation.
- (4) The notice described in Subsection (3)(a) shall include:
 - (a) a detailed explanation of the basis for determination that a catastrophic public nuisance exists on the land in question;
 - (b) a demand that the federal or state agency formulate a plan to abate the catastrophic nuisance; and
 - (c) a specific date, no less than 30 days after the day on which the notice is received, by which time the federal or state agency that manages the land shall:
 - (i) abate the catastrophic public nuisance; or
 - (ii) produce a plan for mitigating the catastrophic public nuisance that is reasonably acceptable to the county or subdivision.
- (5) The chief executive officer of a political subdivision or a county sheriff may enter into a plan with the relevant federal or state agency, or both, to abate the catastrophic public nuisance.
- (6) If, after receiving the notice described in Subsections (3)(a) and (4), the federal or state agency does not respond by the date requested in the notice or otherwise indicates that the federal or state agency is unwilling to take action to abate the catastrophic public nuisance, the chief executive officer of a political subdivision or a county sheriff shall consult with the county attorney and attorney general.

Enacted by Chapter 419, 2015 General Session

11-51a-104 Emergency abatement of a catastrophic public nuisance.

- (1) If a chief executive officer of a political subdivision or a county sheriff determines that a public nuisance exists on federally managed land, pursuant to Subsection 11-51a-103(1), and

the chief executive officer of a political subdivision or the county sheriff also finds that the catastrophic public nuisance in question adversely affects, or constitutes a threat to, the public health, safety, and welfare of the people of the political subdivision, the chief executive officer of the political subdivision or the county sheriff may, after consulting with the attorney general, pursue all remedies allowed by law.

- (2) In seeking an emergency abatement of a catastrophic public nuisance, a chief executive officer of a political subdivision or a county sheriff shall attempt, as much as possible, to:
- (a) coordinate with state and federal agencies; and
 - (b) seek the advice of professionals, including private sector professionals, with expertise in abating a catastrophic public nuisance.

Enacted by Chapter 419, 2015 General Session